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IN THE SUPREME COURT
STATE OF ARIZONA

In the Matter of:)	Supreme Court No. R-11-0033
)	
PETITION TO AMEND ER 3.8 OF)	COMMENT OF VICTIM AND
THE ARIZONA RULES OF)	AUTHOR JENNIFER
PROFESSIONAL CONDUCT (RULE)	THOMPSON IN SUPPORT OF
42 OF THE ARIZONA RULES OF)	PETITION TO AMEND ER 3.8
SUPREME COURT))	OF THE ARIZONA RULES
)	OF PROFESSIONAL
)	CONDUCT

Pursuant to Rule 28 of the Arizona Rules of Supreme Court, victim and author Jennifer Thompson hereby submits this comment in response to the Petition to Amend Ethical Rule (ER) 3.8 of the Arizona Rules of Professional Conduct, which is based on Rule 3.8(g) and (h) of the ABA Model Rules of Professional Conduct. For the reasons that follow, I write to support the Court's proposed rule.

I. MY LIFE

In January 1985, I sat in the Alamance County Superior Court and listened to the jurors announce that they had found Ronald Cotton guilty of the first-degree rape, first-degree burglary and first-degree sexual assault of me. My heart gave a heavy sigh and for the first time in six months I felt a small window of safety. He was a monster that had come into my life, uninvited and shattered everything I had worked for, planned on and hoped for. I wanted him to die, in the most painful and horrible way. I would pray for this but in the meantime, life in prison would have to be his punishment.

1 Over the next few months I somehow put the few pieces of my broken
2 life together and graduated, but it was not without large amounts of self-
3 destruction and fear. I would move on, but the horrors of that July night
4 followed me wherever I went. I could not go far enough to escape the hell of
5 what Ronald Cotton had done to me. That girl, Jennifer Thompson, had been
6 left behind and in her place was but a hollow fragment that at times was
7 unrecognizable to me. It was only blind hate and rage that allowed me to know
8 I was still alive.

9 Time passed by, I began to work, fell in love, and in 1988 I married. By
10 the spring of 1990, my life took a beautiful turn and I gave birth to triplets.
11 Morgan, Blake and Brittany burst into the world with all the wonder and
12 amazement that new life takes on times three. God loved me I thought. He had
13 blessed me with these babies because he trusted me to take care of them. I was
14 worthy and valuable again. My energies would be put into my children and
15 somewhere in my heart and soul it gave me pleasure to know that Ronald would
16 not have this. He would never hold his baby, love a woman, see his family or
17 see the light of freedom again. As I would pray for the safety of my babies, I
18 would pray for Ronald to see a cruel end to his pathetic life. People who did
19 horrible things deserved terrible endings. It was only fair.

20 Eleven long years had passed since that night and my life was busy with
21 five-year-old preschoolers. The fear and insecurities had been replaced with
22 laundry and skinned knees. When the phone rang in the spring of 1995 I heard
23 the reassuring voice of Mike Gauldin, the detective from my rape case, asking if
24 he could come in town and visit for a while. His voice had been the one thing
25 that had kept me together during those dark days so seeing him again was
26 something I looked forward to. But he came with the news that Ronald and his
27 attorneys were seeking a test, a DNA test, to prove his innocence. The outrage

1 shocked me. Ronald was guilty, everyone knew it. The judge, jury,
2 community, DA's office, me, we all knew it. I did not have time for this. "Run
3 the test, please," I said. "I cannot go back to do this again. I have a life now."
4 I was not worried about the results as I saw his face in my nightmares every
5 night for the last 4000 days. Ronald Cotton was a rapist. That was certain.

6 Two-and-one-half months later, Mike and the assistant District Attorney
7 of Alamance County stood in my kitchen to deliver the news. The stress on
8 their faces told me something would once again come and shatter my life.
9 Ronald Cotton was *innocent*. His DNA did not match the biological evidence
10 from the rape kits. The DNA matched a serial rapist, Bobby Poole, who had
11 been in the same prison as Ronald and Ronald had tried to tell anyone who
12 would listen that we had gotten it all wrong. I was paralyzed with guilt, shame
13 and abject fear. All these years I had been wrong, I had wished for his death, I
14 wanted him to feel pain. What was I now to do? How much anger must he
15 feel? When and how will he act out his revenge? Is my family safe?

16 It would take me two years to ask for something that Ronald had been
17 waiting for over a decade. As I sat in a church not far from where I had been
18 raped thirteen years before, Ronald walked into the room. Through tears, I
19 asked him if he could ever forgive me. Ronald did the one thing I had not
20 expected. "I forgive you," he said. "I am not angry at you. You made a
21 mistake because you are human. Do not be afraid of me, I will never hurt you.
22 I want you to be happy and I want to be happy. Live a good life Jennifer!"

23 Ronald had changed my life forever. The man I had prayed to die would
24 teach me how to live. He taught me more that afternoon than I have ever
25 learned in any church. He showed me grace, mercy and forgiveness and
26 unlocked my spirit so I could live a life of joy, peace and love.

27 For the next sixteen years, Ronald and I have been able to work together

1 on eyewitness reforms, testify for compensation bills, push for post-conviction
2 DNA access, and co-author a New York Times Bestseller *Picking Cotton*.¹ We
3 have traveled throughout the United States, Canada, Mexico, Sweden and Spain
4 telling our stories so that not only the legal community would be better
5 informed about systemic issues that need to be improved but also the larger
6 community, in hopes of building open and transparent dialogue.

7
8 II. I SUPPORT THE COURT’S CONSIDERATION OF VICTIMS’ INTERESTS
9 THROUGH THIS NEW RULE.

10 One of the most difficult parts of this journey for me has been to work
11 with other victims and victims’ families during the painful exoneration process.
12 While their experiences have been painful, traumatic and frightening like my
13 own, often I hear stories of not being informed until a family member makes a
14 phone call or they read something in the newspaper. They have said things
15 such as “How do I trust anyone?” “I thought the state was supposed to represent
16 the victims?” “How did this happen?” In some strange way, I was lucky. I was
17 informed about the DNA test, when results came back, when Ronald would be
18 exonerated, and I received help when I asked for a private meeting two years
19 later. I have learned that my experience is not the norm, but it should be.² In
20 the last few years I have had the opportunity to speak out about victims’
21 experiences during wrongful convictions, and I have been heard. Trauma, fear,
22 guilt, shame, confusion, mistrust and anger are just a few of the emotions
23

24 ¹ JENNIFER THOMPSON ET AL., *PICKING COTTON: OUR MEMOIR OF*
25 *INJUSTICE AND REDEMPTION* (2009).

26 ² I thus support proposed ER 3.8(h) and the Court’s addition of
27 victim notification.
28

1 common to all of us, those of us who feel failed by the justice system that was
2 supposed to protect us and be our voice.

3 *Not one of us* was interested in keeping an innocent person in prison for a
4 crime they did not commit, as we directly know the pain of being a victim of
5 violence. *We want and need justice, but only when the truth is the driving*
6 *force.*

7 It has been almost thirty years since that fateful day that changed not only
8 my life and Ronald's life, but also the lives of our families, the community and
9 the other women who became the victims of Bobby Poole that fall of 1984 and
10 into the spring of 1985. In 2009, after our memoir was published, I received an
11 email from a woman. She and I met one evening so she could tell me her story,
12 one I needed to hear. She was the last victim of Bobby Poole. It sounded so
13 reminiscent of mine. Asleep in her bed, a knife to her throat, phone line cut.
14 She thanked me for my work, for this book. But my heart was broken, for we
15 had left a serial rapist on the street and the path of destruction was huge. You
16 see when the system failed me, it failed so many others. The victimization I felt
17 that night when I was raped would take decades to process and heal from. And
18 yet in some strange twist of fate, I have been blessed and enriched on this
19 journey to hell and back. While I would not go back and live through it again
20 or wish this on anyone, I suppose I would not change it either. I survived and I
21 am strong. I found my voice, and both it and these reforms are important. For
22 that I am grateful.

23 CONCLUSION

24 For the reasons above, I urge the Court to adopt its proposed rule.

25 **RESPECTFULLY SUBMITTED** this 22nd day of October, 2013.

26 By /s/Jennifer Thompson
27 Jennifer Thompson

1 Electronic copy filed with the Clerk
2 of the Supreme Court of Arizona
3 this 22nd day of October, 2013.

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5 this 22nd day of October, 2013, to:

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24 * Institutional designation is for identification purposes only.